

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1850

Introduced by Assembly Member Charles Calderon

February 22, 2012

An act to amend Section 25402 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1850, as amended, Charles Calderon. Energy: appliance efficiency.

Existing law requires the State Energy Resources Conservation and Development Commission to prescribe, by regulation, appliance efficiency standards, based on reasonable and current use patterns, to promote the use of energy- and water-efficient appliances. Existing law requires these standards to become effective no sooner than one year after the date of adoption or revision.

Existing law provides that, within 5 years after the adoption of an appliance standard, a change in an appliance standard shall not become effective unless the commission adopts other cost-effective measures for that appliance.

~~This bill would additionally provide that a change in the appliance standard may become effective if the commission finds that the appliance standard is no longer needed. The bill would require the commission, in establishing the appliance standards, to rely on the most current data possible and, whenever feasible, rely on data no older than one year prior to the commencement of the formal rulemaking process.~~

This bill would provide that the battery charger labeling requirements do not become effective and would prohibit the enforcement of those requirements if, no later than January 31, 2013, the United States Department of Energy issues a decision adopting a federal labeling requirement for battery chargers that becomes effective no later than July 1, 2013. The bill would provide that the battery charger labeling requirements adopted by the commission that become effective would remain in effect only until the United States Department of Energy adopts a final labeling rule for battery chargers that becomes effective.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 25402 of the Public Resources Code is*
2 *amended to read:*
3 25402. The commission shall, after one or more public
4 hearings, do all of the following, in order to reduce the wasteful,
5 uneconomic, inefficient, or unnecessary consumption of energy,
6 including the energy associated with the use of water:
7 (a) (1) Prescribe, by regulation, lighting, insulation climate
8 control system, and other building design and construction
9 standards that increase the efficiency in the use of energy and water
10 for new residential and new nonresidential buildings. The
11 commission shall periodically update the standards and adopt any
12 revision that, in its judgment, it deems necessary. Six months after
13 the commission certifies an energy conservation manual pursuant
14 to subdivision (c) of Section 25402.1, no city, county, city and
15 county, or state agency shall issue a permit for any building unless
16 the building satisfies the standards prescribed by the commission
17 pursuant to this subdivision or subdivision (b) that are in effect on
18 the date an application for a building permit is filed. Water
19 efficiency standards adopted pursuant to this subdivision shall be
20 demonstrated by the commission to be necessary to save energy.

(2) Prior to adopting a water efficiency standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance, safety, and for the protection of life, health, and general welfare to standards in Title 24 of the California Code of Regulations and (B) does not unreasonably or unnecessarily impact the ability of Californians to purchase or rent affordable housing, as determined by taking account of the overall benefit derived from water efficiency standards. Nothing in this subdivision in any way reduces the authority of the Department of Housing and Community Development to adopt standards and regulations pursuant to Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code.

(3) Water efficiency standards and water conservation design standards adopted pursuant to this subdivision and subdivision (b) shall be consistent with the legislative findings of this division to ensure and maintain a reliable supply of electrical energy and be equivalent to or superior to the performance, safety, and protection of life, health, and general welfare standards contained in Title 24 of the California Code of Regulations. The commission shall consult with the members of the coordinating council as established in Section 18926 of the Health and Safety Code in the development of these standards.

(b) (1) Prescribe, by regulation, energy and water conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy and water. The commission shall periodically review the standards and adopt any revision that, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a). Water conservation design standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy. Prior to adopting a water conservation design standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent *to*, or superior ~~in~~ *to, in*

1 performance, safety, and ~~for the~~ protection of life, health, and
2 general welfare ~~to~~, standards in the California Building Standards
3 Code and (B) does not unreasonably or unnecessarily impact the
4 ability of Californians to purchase or rent affordable housing, as
5 determined by taking account of the overall benefit derived from
6 the water conservation design standards. ~~Nothing in this~~ *This*
7 ~~subdivision in any way reduces~~ *does not reduce* the authority of
8 the Department of Housing and Community Development to adopt
9 standards and regulations pursuant to Part 1.5 (commencing with
10 Section 17910) of Division 13 of the Health and Safety Code.

11 (2) In order to increase public participation and improve the
12 efficacy of the standards adopted pursuant to subdivisions (a) and
13 (b), the commission shall, prior to publication of the notice of
14 proposed action required by Section 18935 of the Health and Safety
15 Code, involve parties who would be subject to the proposed
16 regulations in public meetings regarding the proposed regulations.
17 All potential affected parties shall be provided advance notice of
18 these meetings and given an opportunity to provide written or oral
19 comments. During these public meetings, the commission shall
20 receive and take into consideration input from all parties
21 concerning the parties' design recommendations, cost
22 considerations, and other factors that would affect consumers and
23 California businesses of the proposed standard. The commission
24 shall take into consideration prior to the start of the notice of
25 proposed action any input provided during these public meetings.

26 (3) The standards adopted or revised pursuant to subdivisions
27 (a) and (b) shall be cost-effective when taken in their entirety and
28 when amortized over the economic life of the structure compared
29 with historic practice. When determining cost-effectiveness, the
30 commission shall consider the value of the water or energy saved,
31 impact on product efficacy for the consumer, and the life cycle
32 cost of complying with the standard. The commission shall consider
33 other relevant factors, as required by Sections 18930 and 18935
34 of the Health and Safety Code, including, but not limited to, the
35 impact on housing costs, the total statewide costs and benefits of
36 the standard over its lifetime, economic impact on California
37 businesses, and alternative approaches and their associated costs.

38 (c) (1) (A) Prescribe, by regulation, standards for minimum
39 levels of operating efficiency, based on a reasonable use ~~pattern,~~
40 ~~and may pattern.~~

1 (B) *The commission may* prescribe other cost-effective measures,
2 including incentive programs, fleet averaging, energy and water
3 consumption labeling not preempted by federal labeling law, and
4 consumer education programs, to promote the use of energy and
5 water efficient appliances whose use, as determined by the
6 commission, requires a significant amount of energy or water on
7 a statewide basis. ~~The~~

8 (C) *The* minimum levels of operating efficiency shall be based
9 on feasible and attainable efficiencies or feasible improved
10 efficiencies that will reduce the energy or water consumption
11 growth rates. ~~The~~

12 (D) *The* standards shall become effective no sooner than one
13 year after the date of adoption or revision. ~~No~~ A new appliance
14 manufactured on or after the effective date of the standards ~~may~~
15 *shall not* be sold or offered for sale in the state, unless it is certified
16 by the manufacturer ~~thereof~~ *of the appliance* to be in compliance
17 with the standards. The standards shall be drawn so that they do
18 not result in any added total costs for consumers over the designed
19 life of the appliances concerned.

20 ~~In~~

21 (E) *In* order to increase public participation and improve the
22 efficacy of the standards adopted pursuant to this subdivision, the
23 commission shall, prior to publication of the notice of proposed
24 action required by Section 18935 of the Health and Safety Code,
25 involve parties who would be subject to the proposed regulations
26 in public meetings regarding the proposed regulations. All potential
27 affected parties shall be provided advance notice of these meetings
28 and given an opportunity to provide written or oral comments.
29 During these public meetings, the commission shall receive and
30 take into consideration input from all parties concerning the parties'
31 design recommendations, cost considerations, and other factors
32 that would affect consumers and California businesses of the
33 proposed standard. The commission shall take into consideration
34 prior to the start of the notice of proposed action any input provided
35 during these public meetings.

36 ~~The~~

37 (F) *The* standards adopted or revised pursuant to this subdivision
38 shall not result in any added total costs for consumers over the
39 designed life of the appliances concerned. When determining
40 cost-effectiveness, the commission shall consider the value of the

1 water or energy saved, impact on product efficacy for the
2 consumer, and the life cycle cost to the consumer of complying
3 with the standard. The commission shall consider other relevant
4 factors, as required by Sections 11346.5 and 11357 of the
5 Government Code, including, but not limited to, the impact on
6 housing costs, the total statewide costs and benefits of the standard
7 over its lifetime, economic impact on California businesses, and
8 alternative approaches and their associated costs.

9 (2) ~~No~~A new appliance, except for any plumbing fitting,
10 regulated under paragraph (1), that is manufactured on or after
11 July 1, 1984, ~~may~~ *shall not* be sold, or offered for sale, in the state,
12 unless the date of the manufacture is permanently displayed in an
13 accessible place on that appliance.

14 (3) During the period of five years after the commission has
15 adopted a standard for a particular appliance under paragraph (1),
16 no increase or decrease in the minimum level of operating
17 efficiency required by the standard for that appliance shall become
18 effective, unless the commission adopts other cost-effective
19 measures for that appliance.

20 (4) Neither the commission nor any other state agency shall
21 take any action to decrease any standard adopted under this
22 subdivision on or before June 30, 1985, prescribing minimum
23 levels of operating efficiency or other energy conservation
24 measures for any appliance, unless the commission finds by a
25 four-fifths vote that a decrease is of benefit to ratepayers, and that
26 there is significant evidence of changed circumstances. Before
27 January 1, 1986, the commission shall not take any action to
28 increase a standard prescribing minimum levels of operating
29 efficiency for any appliance or adopt a new standard under
30 paragraph (1). Before January 1, 1986, any appliance manufacturer
31 doing business in this state shall provide directly, or through an
32 appropriate trade or industry association, information, as specified
33 by the commission after consultation with manufacturers doing
34 business in the state and appropriate trade or industry associations,
35 on sales of appliances so that the commission may study the effects
36 of regulations on those sales. These informational requirements
37 shall remain in effect until the information is received. The trade
38 or industry association may submit sales information in an
39 aggregated form in a manner that allows the commission to carry
40 out the purposes of the study. The commission shall treat any sales

1 information of an individual manufacturer as confidential and that
2 information shall not be a public record. The commission shall not
3 request any information that cannot be reasonably produced in the
4 exercise of due diligence by the manufacturer. At least one year
5 prior to the adoption or amendment of a standard for an appliance,
6 the commission shall notify the Legislature of its intent, and the
7 justification to adopt or amend a standard for the appliance.
8 Notwithstanding paragraph (3) and this paragraph, the commission
9 may do any of the following:

10 (A) Increase the minimum level of operating efficiency in an
11 existing standard up to the level of the National Voluntary
12 Consensus Standards 90, adopted by the American Society of
13 Heating, Refrigeration, and ~~Air-Conditioning~~ *Air-Conditioning*
14 Engineers or, for appliances not covered by that standard, up to
15 the level established in a similar nationwide consensus standard.

16 (B) Change the measure or rating of efficiency of any standard,
17 if the minimum level of operating efficiency remains substantially
18 the same.

19 (C) Adjust the minimum level of operating efficiency in an
20 existing standard in order to reflect changes in test procedures that
21 the standards require manufacturers to use in certifying compliance,
22 if the minimum level of operating efficiency remains substantially
23 the same.

24 (D) Readopt a standard preempted, enjoined, or otherwise found
25 legally defective by an administrative agency or a lower court, if
26 final legal action determines that the standard is valid and if the
27 standard that is readopted is not more stringent than the standard
28 that was found to be defective or preempted.

29 (E) Adopt or amend any existing or new standard at any level
30 of operating efficiency, if the Governor has declared an energy
31 emergency as described in Section 8558 of the Government Code.

32 (5) Notwithstanding paragraph (4), the commission may adopt
33 standards pursuant to Commission Order No. 84-0111-1, on or
34 before June 30, 1985.

35 (d) (1) Recommend minimum standards of efficiency for the
36 operation of any new facility at a particular site that are technically
37 and economically feasible. ~~No~~ A site and related facility shall be
38 *not* certified pursuant to Chapter 6 (commencing with Section
39 25500), unless the applicant certifies that standards recommended
40 by the commission have been considered, which certification shall

1 include a statement specifying the extent to which conformance
2 with the recommended standards will be achieved.

3 ~~Whenever~~

4 (2) *Whenever* this section and Chapter 11.5 (commencing with
5 Section 19878) of Part 3 of Division 13 of the Health and Safety
6 Code are in conflict, the commission shall be governed by that
7 chapter of the Health and Safety Code to the extent of the conflict.

8 (e) The commission shall do all of the following:

9 (1) Not later than January 1, 2004, amend any regulations in
10 effect on January 1, 2003, pertaining to the energy efficiency
11 standards for residential clothes washers to require that residential
12 clothes washers manufactured on or after January 1, 2007, be at
13 least as water efficient as commercial clothes washers.

14 (2) Not later than April 1, 2004, petition the federal Department
15 of Energy for an exemption from any relevant federal regulations
16 governing energy efficiency standards that are applicable to
17 residential clothes washers.

18 (3) Not later than January 1, 2005, report to the Legislature on
19 its progress with respect to the requirements of paragraphs (1) and
20 (2).

21 (f) (1) *Notwithstanding any other law, the battery charger*
22 *product labeling regulations adopted by the commission for*
23 *consumer products with battery chargers shall not take effect and*
24 *the commission shall not enforce those regulations if, no later than*
25 *January 31, 2013, the United States Department of Energy has*
26 *issued a decision adopting a federal labeling requirement for*
27 *battery charger products that takes effect no later than July 1,*
28 *2013.*

29 (2) *If battery charger product labeling regulations adopted by*
30 *the commission become effective, those regulations shall remain*
31 *in effect only until a United States Department of Energy final*
32 *labeling rule is effective for battery charger products. Labeling*
33 *regulations adopted by the commission for battery charger*
34 *products not regulated by the United States Department of Energy*
35 *shall remain in effect notwithstanding the United States Department*
36 *of Energy regulation.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, August 6, 2012. (JR11)**

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